

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK



United States of America,  
Plaintiff(s),

v

Brian C. Young,  
Petitioner.

Criminal Case No.: 13-CR-00134-WMS  
MOTION FOR RECOMMENDATION FOR  
RESIDENTIAL RE-ENTRY CENTER -  
(RRC)  
PURSUANT TO Title 18 U.S.C. §3624c  
Honorable William M. Skretny

NOW COMES, Brian C. Young, (Hereinafter, "Petitioner") in the above caption action, respectfully move this Honorable Court to grant this motion in its entirety.

On June 17, 2015, Petitioner was sentenced to a term of 120 months imprisonment, followed by a term of supervision for a violation of Title 21 United States Code, §841(a)(1) and (b)(1)(C). This Honorable Court sentenced Petitioner in the above captioned case. Therefore, this honorable Court has jurisdiction over this matter pursuant to Title 18 United States Code, §3621(b)(4)(B) and (5).

Petitioner represents that he is "determined enough to be reformed and rejoin a law-abiding society with all the available help from a prolonged placement in a federal halfway house aka Residential Re-Entry Center." As of this filing of the instant motion, Petitioner was enrolled in or has completed the following programs:

- 1) Aerobics I & II;
- 2) Body Shred Wellness Class I & II;
- 3) Continuity Care/Disease;
- 4) Education Care 2&3 Benefit Exercise;
- 5) FDIC MoneySmart;
- 6) Financial Peace University;
- 7) High Intensity Cardio Class;
- 8) Introduction to HVAC;
- 9) Job Fair Interview;

- 10) Job Skills;
- 11) Jump Rope;
- 12) Medicine Ball;
- 13) Non-Residential Drug Program;
- 14) Power Circuits;
- 15) Release Methods, Prop. Supervision; and
- 16) 15 Hour Drug Program.

Petitioner is currently in the Residential Drug Abuse Program ("RDAP"); which he currently holds several leadership positions. Petitioner is enrolled in other programs for the preparation of his release and rehabilitation. Further, Petitioner expresses remorse for his offense, and Petitioner has remain incident report free

Petitioner understands that this Honorable Court does not have the authority to ORDER the relief that Petitioner seeks. However, Petitioner understands that this Honorable Court has full authority under Title 18 United States Code, §3621(b)(4)(B) to recommend that Petitioner serve part of his imprisonment in a community correctional facility. SEE: United States v Brown, 2017 U.S. Dist. LEXIS 107617 (6th Cir. July 12, 2017)(BOP granting maximum RRC based on a judicial recommendation) as explained by the United States Supreme Court, "A sentencing Court can recommend that the BOP place an offender in a particular facility or program." SEE United States v Burden, 860 F.3d 45 (2d. Circuit 2017); see also United States v Williams, 654 F.3d 126 6th Cir. 2016)(citing Tapia v United States, 564 U.S. 319, 331, 131 S. Ct. 2382, 2390-91, 180 L. Ed. 2d 357 (2011)(citing 18 U.S.C. §§3621(b),(e) and (f) 3624(f); and 28 C.F.R. pt. 544 (2010); see also Beckley v Miner, 125 Fed. Appx. 385, 389 (3rd Cir. 2005).

Petitioner's motion points to a number of legal authorities that dictate how the Bureau of Prisons ("BOP") must carry out this responsibility. For instance, Petitioner emphasizes that the BOP must consider the five factors

enumerated in Title 18 U.S.C. §3621(b) before making a determination about a prisoner's place of imprisonment. Petitioner moreover points out that this statute requires the BOP to engage in "individual determinations" concerning a prisoner's placement. SEE: *Muniz v. Sabol*, 517 F.3d 29, 36 (1st Cir. 2008). Yet while it is true that these legal authorities bind the BOP, it is to say that the Sentencing Court can offer any opinion as to where a prisoner should be placed. As the text of 18 U.S.C. §3621 makes evident, the BOP must consider "any statement by the Court that imposed the sentence" that "recommends a type of penal or correctional facility as appropriate."

Accordingly and to the extent that the BOP must take into consideration any recommendation made by the Sentencing Court both in "designating the place of imprisonment or making transfers," 18 U.S.C. §3621(b). Pursuant to Title 18 U.S.C. §3621(b)(4) this Honorable Court has jurisdiction to recommend (1) Petitioner spend the maximum time allowed by Title 18 U.S.C. §3624(c)(2); and (2) spend the remaining months/days in a halfway house or other community corrections facility, not necessarily in that order. SEE: *United States v. Qadri*, 2017 U.S. Dist. LEXIS 38716, 2017 WL 1011663, at \*1-2 (D. Haw. March 15, 2017).

#### LEGAL STANDARD

The Bureau of Prisons has the discretion to place an inmate into "any available penal or correctional facility." SEE: Title 18 United States Code, §3621(b). Title 18 Section 3624(c) of the United States Code discusses the placement of a prisoner during the final portion of their sentence:

The Director of the Bureau of Prisons shall, to the extent practicable, ensure that a prisoner serving a term of imprisonment spends a portion of the final months of that term (not to exceed 12 months), under conditions that will afford that prisoner a reasonable opportunity to adjust to and prepare for re-entry of the prisoner into the community. Such conditions may include a community correctional facility also known as Residential Re-Entry Center (RRC) and halfway house. SEE: Title 18 U.S.C. §3624(c)(1).

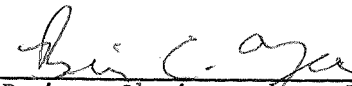
This Honorable Court can make a recommendation that an incarcerated person serve part of their imprisonment in community corrections facilities or home confinement. SEE: Title 18 U.S.C. §3621(b)(5).

Petitioner has provided significant information about his activities since sentencing and the extent of his efforts and progress toward rehabilitation while in prison. Petitioner further notes his compliance with the terms of his postrelease, i.e., IFRP. He has made efforts to be a good candidate for successful rehabilitation. SEE: *United States v Brattin*, No. 13-CR-0161-JAD-CWH-1, 2016 U.S. Dist. LEXIS 112222, 2016 WL 4467897, at \*1 (D. Nev. August 23, 2016)(granting motion where prisoner was an orderly with a gate pass, a low security risk permitted to leave the facility to conduct his duties, good disciplinary record, and would spend at least 4.5 months in an RRC based on recommendation to BOP); *United States v Bartels*, No. 12-CR-20072, 2016 U.S. Dist. LEXIS 164056, 2016 WL 6956796, at \*1 (E.D. Mich. Nov. 29, 2016)(finding petitioner was a good prospect for successful rehabilitation because he was relatively young and participated in five Bureau of Prisons rehabilitation programs); *United States v Baker*, No. 3:01-CR-94-01-MHT, 2013 U.S. Dist. LEXIS 11418, 2013 WL 355867, at \*1-2 (M.D. Al. Jan. 29, 2013) (citing substantial evidence of prisoner's stellar prison record and recommendations from two Bureau of Prison supervisors); *United States v Qadri*, No. 06-CR-00469-LEK, 2017 U.S. Dist. LEXIS 38716, 2017 WL 1011663, at \*1-2 (D. Haw. March 15, 2017)(citing prisoner's good conduct and compliance with release conditions during six years of pre-trial release and two years of appeal release, lack of criminal history and completion of multiple rehabilitation programs); *United States v Smalls*, No. 11-CR-00122-ML (1st Cir. 2011)(granting petitioner's judicial recommendation due to full participation in the Residential Drug Abuse Program after being precluded from the benefit of 18 U.S.C. §3621(e) (the year off)).

## CONCLUSION

Therefore, Petitioner contends that he is in need of gainful employment upon release. Additionally, Petitioner will need adequate time to find a residence. These things being major factors of why Congress' intention of expanding the timeframe from six (6) months to twelve (12) months were placed; Petitioner is in need of the benefits that the Second Chance Act offers. Further, Petitioner respectfully moves this Honorable Court to grant Petitioner's motion for Recommendation for Residential Re-Entry to the timeframe that this Honorable Court deems appropriate; or any other relief that this Honorable Court deems appropriate in considering the responsibilities that Petitioner has upon his release and as a model inmate, pillar and leader of the Residential Drug Abuse Program (RDAP).

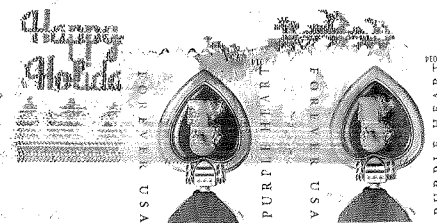
DATED: December 15, 2017

  
\_\_\_\_\_  
Brian Christopher Young, Movant  
Sworn to as true and correct  
under the penalties of perjury  
pursuant to 28 U.S.C. §1746.

INMATE NAME/NUMBER: Brown, Tony 22421-055  
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